

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

United States of America CR-15-976-TUC-CKJ(BGM)

vs.

Ramon Ramos-Zepeda, February 19, 2016
3:05 p.m.
Defendant. Tucson, Arizona

PARTIAL TRANSCRIPT OF PROCEEDINGS

TESTIMONY OF AGENT JORGE BORREGO

BEFORE THE HONORABLE BRUCE G. MACDONALD
UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S

For the Government:

Kathryn Furtado
Liza Granoff
United State's Attorney's Office
405 West Congress
Tucson, Arizona 85701

For the Defendant:

Juan L. Rocha
Law Office of Juan L. Rocha
PO Box 5965
Mesa, Arizona 85211

PROCEEDINGS WERE DIGITALLY RECORDED

TRANSCRIBED BY: ERICA R. McQUILLEN, RDR, CRR
405 West Congress, Suite 1500
Tucson, Arizona 85701
(520) 205-4267

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EXAMINATION INDEX

JORGE BORREGO
DIRECT BY MS. FURTADO 3

1 P R O C E E D I N G S

2 JORGE BORREGO, WITNESS, SWORN

3 THE WITNESS: My name is Jorge Borrego.

4 My last name is B-o-r-r-e-g-o.

5 THE COURT: Thank you.

6 Ms. Furtado?

7 MS. FURTADO: Thank you.

8 DIRECT EXAMINATION

9 BY MS. FURTADO:

10 Q. Sir, can you tell us where you work.

11 A. The U.S. Border Patrol.

12 Q. And how long have you worked there?

13 A. Been there just over eight years.

14 Q. Does it take special training to become a
15 border patrol agent?

16 A. Yes.

17 Q. Can you tell us about that special training
18 and what you had to do.

19 A. I went to a -- the academy in Artesia, New
20 Mexico, and there we received training. We learned
21 immigration law, criminal law, firearms, defensive
22 tactics, flying watch duties, patrol -- how to
23 patrol the border.

24 Q. Okay. When you finish basic training, do you
25 have to go to field training?

1 A. Yes.

2 Q. Is there a portion of basic training where you
3 can learn Spanish?

4 A. Yes.

5 Q. Did you have to do that portion?

6 A. No.

7 Q. Is that -- why is that?

8 A. I was able to test out of speaking -- of the
9 Spanish course.

10 Q. Did you grow up speaking Spanish?

11 A. Yes.

12 Q. Okay. Once you finished -- did you
13 successfully complete your basic training?

14 A. Yes.

15 Q. Did you then go to field training?

16 A. Yes.

17 Q. Where did you do your field training?

18 A. I received my field training in my duty
19 station, which is Sonoita, Arizona.

20 Q. And how long did you have to do field
21 training?

22 A. It was approximately 12 weeks.

23 Q. And what types of things did you do while on
24 field training?

25 A. We did -- we interacted with people trying to

1 attempt to enter the country illegally or smuggle
2 contraband. We learned this under supervision of
3 another agent.

4 Q. Do you have to be -- do you have to
5 successfully complete your field training to be let
6 out to be a border patrol agent on your own?

7 A. Yes.

8 Q. Do you have to do post-academy training as
9 well?

10 A. Yes.

11 Q. What is that?

12 A. It's -- we received our training -- it's
13 online, a series of tests and exams, and you have
14 to pass those exams.

15 Q. Were you able to pass those?

16 A. Yes.

17 Q. So were you able to then successfully complete
18 basic field and post-academy training?

19 A. Yes.

20 Q. After that did you receive specialty training?

21 A. Yes.

22 Q. Or specialty assignments?

23 A. Yes.

24 Q. Okay. Can you take us through what specialty
25 assignments you've had.

1 A. I did a detail in Tucson, Arizona, as a
2 processing agent, so I did various processing,
3 notice to appears, ERs, expedited removals,
4 reinstatements of prior order of removals.

5 And I've also done prosecutions, and that was
6 also in Tucson, and there I was -- worked as a case
7 agent.

8 Q. All right. Let's talk about your time process
9 -- in the processing assignment. How did you
10 generally do your processing? I mean, how is it
11 generally laid out, from what you have experienced?

12 A. Somebody -- somebody gets apprehended, and
13 then they get brought back to where they're going
14 to get processed, and most -- in my case I did it
15 both in Sonoita and Tucson.

16 And they get fingerprinted. They'll get a --
17 before they get fingerprinted, they'll get -- it's
18 called a field I-826, and that's where they'll take
19 biographical information from an individual.

20 Q. Who's "they?"

21 A. Agents in the field. And after they get --
22 after they get their biographical information,
23 they're taken to the station and fingerprint --
24 they'll run the fingerprints and take a photograph
25 of the individual.

1 Q. That field 826, is that something that you
2 would get as a processing agent?

3 A. Yes.

4 Q. And what kind of information does it have on
5 it?

6 A. It'll have all the information, biographical
7 information of the individual.

8 Q. Okay. And do you look at that information as
9 a processing agent?

10 A. Yes.

11 Q. Do you look at the form for other information
12 that might be provided on there?

13 A. Yes. If there's -- it'll help you determine
14 what kind of -- what kind of file to do on the
15 individual, how to -- how you're going to proceed
16 with the individual.

17 Q. What kinds of things are you taking into
18 consideration when you're deciding how to process
19 an individual that you're presented with?

20 A. Once they're -- once they're fingerprinted and
21 rolled, we'll take a look at their criminal history
22 and their immigration history, and in addition to
23 that, if somebody states -- has some kind of claim
24 to being admissible to the U.S. also.

25 Q. Those are things that you would take into

1 consideration?

2 A. Yes.

3 Q. Is that what you're saying? Okay.

4 When you're processing, what types of
5 questions are you asking?

6 A. It's -- it's biographical information, and --
7 and if you -- sorry. Repeat the question.

8 Q. Well, maybe I'll ask a better question.

9 You said there's biographical information
10 provided on the field 826.

11 A. Yes.

12 Q. When you process a person, so they come with
13 their 826, what types of questions are you asking
14 that person?

15 A. I'm determining to make sure to see if they're
16 admissible or inadmissible, so I will take a sworn
17 statement if I determine they're inadmissible.

18 Q. Okay. The first steps though, you said, with
19 processing are what? You get the field 826; is
20 that correct?

21 A. Yes.

22 Q. All right. From there, would you run their
23 criminal history?

24 A. After we fingerprint. With the fingerprints
25 and the picture being taken, we'll -- that will get

1 run through our databases, and it'll tell us their
2 -- reveal their criminal or immigration history.

3 Q. Okay. Once you have that information, do --
4 do you use a computer system then to process the
5 person before you?

6 A. Yes.

7 Q. Okay.

8 A. It's called the E3. That's where we input all
9 our information.

10 Q. And what types of steps do you have to go
11 through when you're using the E3?

12 A. I'll bring the individual up to me with their
13 826, and I'll have them standing in front of me,
14 and I'll go through each page with the individual.

15 Q. Each page of?

16 A. An E3, the pages that you go through.

17 Q. The field 826, when they come with that, is
18 there a photo of the person on the field 826?

19 A. No.

20 Q. Okay. Where would the photo -- you said
21 there's a photo taken. Where would the photo of
22 the person be?

23 A. That's something I would do if I'm taking the
24 fingerprints and the photo.

25 Q. And do you always take the fingerprints and

1 the photo when you're processing someone?

2 A. Not always.

3 Q. Is it -- is it information that you get at
4 some point during your processing?

5 A. Yes.

6 Q. Okay. And when you're processing, do you ask
7 again biographical information?

8 A. Yes. I'll verify with the name or the -- and
9 the date of birth to make sure the correct person
10 is standing in front of me.

11 Q. Okay. So help me to understand. Are you
12 asking the person in front of you their date of
13 birth and their name?

14 A. With the 826, just to make sure it's that
15 person.

16 Q. Okay. Do you also look at the photo that's
17 been provided to see if that's the person in front
18 of you as well?

19 A. Yes.

20 Q. Before you begin processing, do you consider
21 the criminal history and the immigration history of
22 the person before you?

23 A. Yes.

24 Q. Okay. Does that information factor into the
25 decisions you make in terms of how you're going to

1 process?

2 A. Yes.

3 Q. Now, what type of biographical information do
4 you ask a person as you're processing them?

5 A. I'll verify the information off the 826, and
6 then if the person has no credible fear or they're
7 -- they have some kind of claim of being
8 inadmissible into the U.S., I'll be asking these
9 questions.

10 Q. Okay. One second.

11 Do you fill out a form when you're doing
12 processing, the I-213 form?

13 A. Yes.

14 MS. FURTADO: Judge, may I approach the
15 witness?

16 THE COURT: Sure.

17 MS. FURTADO: Thank you.

18 BY MS. FURTADO:

19 Q. I'm going to show you this document, and I
20 would ask you to take a look at it and see if you
21 recognize it.

22 A. Vaguely.

23 Q. Okay. Is it an I-213 form?

24 A. Yes.

25 Q. Is that the form you would use when you

1 process a person?

2 A. Yes.

3 Q. Does it include the questions that you would
4 ask a person while processing them?

5 A. Yes.

6 Q. Okay. Are you familiar with this type of
7 form?

8 A. Yes.

9 Q. Okay. Are you familiar with the layout of
10 this form?

11 A. Yes.

12 Q. And is that an accurate reflection of the
13 layout of an I-213 form?

14 A. Yes.

15 Q. So when doing a processing of an alien and
16 you're filling out I-213 form, what are the types
17 of biographical questions that you might ask a
18 person?

19 A. Their -- I'll ask them -- I'll verify their
20 name, date of birth. I'll ask them their address,
21 if they have any children. I will ask them their
22 parent -- verify their parents' name.

23 Q. Are you asking to -- about their parents in
24 terms of where their parents were born or where
25 their parents live?

1 A. Both.

2 Q. Okay. Why do you ask the question about
3 children?

4 A. If they are able to -- if they have a claim, I
5 can do a different kind of file. If it's -- in
6 this case it was an expedited removal, but if it
7 was -- if he had United States children, I would do
8 a different kind of file.

9 Q. Does United -- does having United States
10 children affect your decision on how you process a
11 person?

12 A. Yes.

13 Q. Okay. Are you noting -- when you are filling
14 out the I-213 form, are you noting the responses
15 that a person you're processing is giving you?

16 A. Yes.

17 Q. How are you noting those responses?

18 A. So this individual is standing in front of me,
19 and I'm going -- in the computer there
20 is page-by-page. I'm inputting his information as
21 I'm asking him.

22 Q. Is it a verbatim documentation of what they're
23 saying to you?

24 A. Yes.

25 Q. If a person tells you they're not going to

1 answer a question, what is your process for
2 documenting that response?

3 A. "Failed to respond," something like that.

4 Q. Why are you asking questions about where a
5 person's parents live?

6 A. Because if they can get citizenship from their
7 parents, it would be a different file also.

8 Q. And their responses to where their parents
9 live, is that something you're documenting in the
10 I-213 form?

11 A. I -- I ask them their name and then their
12 nationality, but in the sworn statement I take from
13 them, I'll get more information from them.

14 Q. You're asking their name. Does that mean
15 you're asking the person that you're processing,
16 you ask their parents' name and their parents'
17 nationality?

18 A. Yeah, I'll ask them what their parents' names
19 are.

20 Q. Okay. Does the I-213 form have a photo on it?

21 A. Yes.

22 Q. And is that the photo that you are comparing
23 to the person you are processing?

24 A. Yes.

25 Q. Okay. Do -- does the person you're processing

1 give you sort of height and weight information?

2 A. We take that from them. We have a scale and
3 height measurement.

4 Q. Okay. Does the -- do you ask the person when
5 you're completing the I-213 form during the
6 processing where that person's country of
7 citizenship is?

8 A. Yes.

9 Q. Okay. Do you ask them if they have a United
10 States address?

11 A. Yes.

12 Q. Do you ask them about their entry into the
13 United States, if they are not from the United
14 States?

15 A. Yes.

16 Q. And is that something you document on the 213
17 form?

18 A. Yes. In this instance --

19 Q. Hold on. We'll get there.

20 A. Okay.

21 Q. We'll get there. Okay. All right.

22 How long does it generally take you to do the
23 processing for the I-213 form?

24 A. Typically the 214 (sic) -- I'm not -- I don't
25 -- I'm not sure. Maybe -- maybe 20 minutes. I

1 mean, like, this is an expedited removal. It takes
2 -- I do it from start to finish, so that's
3 typically like an hour. So the 213 is maybe --
4 maybe around 20 minutes, around that time.

5 Q. Okay. During that time are you making
6 observations about the person you're processing?

7 A. Yes.

8 Q. Are you -- are you noting if they have any
9 injuries?

10 A. Yes.

11 Q. Have you ever had somebody tell you they were
12 afraid when you were doing processing?

13 A. Yes.

14 Q. And when they tell you that, what do you do
15 with that information?

16 A. I will notate it in the 213.

17 Q. Does that cause an alternative process to have
18 to happen?

19 A. There is an additional form that gets
20 generated, and it's a credible fear form.

21 Q. So I'm going to ask you, then, about an
22 expedited removal. Do you recall doing an
23 expedited removal on January 9th, 2009?

24 A. With this report, yes.

25 Q. Okay. And did that process refer to a Ramon

1 Ramos-Zepeda?

2 A. Yes.

3 Q. And did you make contact with Mr. Zepeda and
4 were you the -- well, let me -- let me back up.

5 Were you the person that did all the
6 processing for Mr. Zepeda on the 12th of January,
7 2009?

8 A. Yes.

9 Q. Now, when you began the processing with
10 Mr. Zepeda, what information did you have? Were
11 you given any forms?

12 A. The I-826, the -- that's the form that the
13 agent provides when he brings it individually.

14 Q. Is that the field 826, the field processing
15 form?

16 A. Yes, the field 826.

17 Q. Now, on January 9th, 2009, do you recall if
18 you took the picture of Mr. Ramos-Zepeda?

19 A. I do not.

20 Q. Do you recall looking at the photo that you
21 were provided and comparing it to the person in
22 front of you?

23 A. Yes, I do.

24 Q. And did the photo and the person before you,
25 did that match?

1 A. Yes.

2 Q. Okay. Now, when you do this I-213 process,
3 did you follow the same process we've talked about?
4 Did you ask Mr. Zepeda questions, biographical
5 questions?

6 A. Yes.

7 Q. And let's talk about those.

8 A. Okay.

9 Q. What information did he -- did Mr. Zepeda give
10 you in terms of his nationality?

11 A. His nationality was Mexico.

12 Q. Okay. And I see that you're referring to the
13 report, the I-213.

14 A. Yes.

15 Q. Is that helping you to refresh your memory on
16 this event?

17 A. Yes.

18 Q. Okay. Now, did he tell you about a place and
19 time of entering into the United States?

20 A. Yes.

21 Q. And what did he tell you?

22 A. He entered January 12th, approximately -- I
23 take that back. January 9th of 2009, and it was
24 near Naco, Arizona.

25 Q. Okay. About what time on January 9th?

1 A. 0800, eight o'clock in the morning.

2 Q. Okay. So did you do the processing on the
3 12th of January?

4 A. Yes.

5 Q. Okay. And so the information you were
6 provided as the date and time of the defendant's
7 entry was the 9th of January?

8 A. He answered on the 9th and he was apprehended
9 on the 12th.

10 Q. Okay. The information about time and place of
11 entry and -- was that provided by Mr. Ramos-Zepeda
12 to you?

13 A. I double-checked, but it is also on the field
14 826.

15 Q. By "double-check," does that mean you asked
16 Mr. Ramos --

17 A. Yes.

18 Q. -- Zepeda?

19 A. I do.

20 Q. And the information that you're referring to
21 on your report, was that something that you would
22 have obtained from Mr. Ramos-Zepeda himself?

23 A. Yes.

24 Q. Now, did you ask Mr. Ramos-Zepeda about his
25 parents?

1 A. Yes.

2 Q. Did you ask him where -- the nationality of
3 his mother and father?

4 A. Yes.

5 Q. What did he tell you about their nationality?

6 A. They were nationals of Mexico.

7 Q. Okay. Would that response have triggered you
8 to think that there was any form of relief
9 available to Mr. Ramos-Zepeda?

10 A. No.

11 Q. Did you ask Mr. Ramos-Zepeda about children
12 that he might have?

13 A. Yes.

14 Q. And what was his response?

15 A. He claimed none.

16 Q. Okay. If he had claimed United States citizen
17 children, would that have affected your processing
18 of Mr. Ramos-Zepeda?

19 A. Yes.

20 Q. Would -- what would you have done had he had
21 United States or indicated to you that he had
22 United States citizen children?

23 A. I might have -- I might have -- so we take it
24 to the supervisor, and I would have asked him if he
25 was -- if I should do a notice to appear on the

1 individual.

2 Q. Okay. But since there were none claimed, did
3 that mean you didn't take this information to the
4 supervisor?

5 A. I still take it just to make sure that he --
6 the expedited removal was okay.

7 Q. Okay. And were you advised that the expedited
8 removal would be okay?

9 A. Yes.

10 Q. Okay. Now, when you began -- began this
11 process, did you -- had Mr. Ramos-Zepeda's
12 fingerprints been taken?

13 A. Yes.

14 Q. And did you receive results of his -- from his
15 fingerprints being run?

16 A. Yes, yes.

17 Q. And did you receive criminal history with
18 regard to Mr. Ramos-Zepeda?

19 A. Yes.

20 Q. What information did you receive regarding
21 Mr. Ramos-Zepeda's criminal history?

22 A. He -- he had an outstanding warrant, as long
23 -- as well as criminal history.

24 Q. Okay. Where was the outstanding warrant from?

25 A. The outstanding warrant was out of Redwood

1 City.

2 Q. Okay. And what information -- what
3 information did you have regarding his -- the
4 criminal history besides the warrant? Did you have
5 information --

6 A. Yeah.

7 Q. -- related to a conviction?

8 A. Excuse me?

9 Q. Did you have information related to a
10 conviction?

11 A. Yes.

12 Q. Okay. And did the warrant arise from the
13 conviction?

14 A. Yes.

15 Q. And when was the conviction?

16 A. The conviction, May 23rd of 2006.

17 Q. When you're making a determination in terms of
18 immigration processing, do you consider criminal
19 history?

20 A. Yes.

21 Q. In this particular case, would Mr. Ramos--
22 Zepeda's criminal conviction make him eligible for
23 a voluntary return?

24 A. No.

25 Q. Would the outstanding warrant that Mr. Ramos--

1 Zepeda had, would that make him eligible for a
2 voluntary return?

3 A. No.

4 Q. Did you receive Mr. Ramos-Zepeda's criminal
5 history?

6 A. Yes.

7 Q. And what did -- I'm sorry. I said -- I meant
8 immigration history. Did you receive Mr. Ramos-
9 Zepeda's immigration history?

10 A. Yes.

11 Q. And what information did you have regarding
12 his immigration history?

13 A. There was none found.

14 Q. Okay. How did -- so he had no immigration
15 history. Was he eligible for criminal charges?

16 A. No.

17 Q. Why not?

18 A. Because he had no immigration history.

19 Q. Okay. What were you considering -- you said
20 from the beginning you did an expedited removal.

21 Why did you consider an expedited removal for
22 Mr. Ramos-Zepeda?

23 A. Because of his criminal history, he was
24 eligible for expedited removal.

25 Q. Okay. Let's talk about that eligibility

1 requirement. Okay?

2 A. Okay.

3 Q. How does a person become eligible for
4 expedited removal, according -- according to your
5 process?

6 A. He was apprehended within 14 days of entering
7 the border and within 100 miles. In addition, he
8 was -- he entered illegally.

9 Q. By "illegally," what are you --

10 A. He wasn't -- he didn't go through a port of
11 entry. He wasn't inspected.

12 Q. And during your processing of him, did
13 Mr. Ramos-Zepeda have any entry documents with him
14 or on him?

15 A. Did he have any?

16 Q. Yes.

17 A. No.

18 Q. Okay. So in terms of expedited removal, do
19 you have to be found within a hundred air miles of
20 the border?

21 A. Yes.

22 Q. And when the agents made contact with him, did
23 you have information about how the contact was made
24 with Mr. Ramos-Zepeda?

25 A. On the 826, yes.

1 Q. Okay. And what information did you have as to
2 how agents made contact with Ramos-Zepeda on the
3 12th?

4 A. Do you have the 826 available?

5 Q. I would ask you to just look at page 4, Bates
6 stamp 54, first paragraph.

7 A. Agents were performing their border patrol
8 duties east of Sonoita. They were -- it was via
9 horse patrol and ATV units.

10 Q. Okay. So was Mr. Ramos-Zepeda physically in
11 the United States when agents made contact with
12 him?

13 A. Yes.

14 Q. And what -- and did you say that the date of
15 entry was the 9th of January?

16 A. Yes.

17 Q. And was that the date that Mr. Ramos-Zepeda
18 said he originally came into the United States?

19 A. Yes.

20 Q. And was that within 14 days of the encounter
21 with immigration officials for him to qualify for
22 an expedited removal?

23 A. Yes.

24 Q. Okay. Now, when you're doing an expedited
25 removal, do you have to follow a certain process?

1 A. Yes.

2 Q. Does that mean you have to take a sworn
3 statement from the individual?

4 A. Yes.

5 Q. And would you have to provide them notice of
6 their potential inadmissibility?

7 A. Yes.

8 Q. Would you also have to provide them -- provide
9 them information about the potential charges they
10 face?

11 A. Yes.

12 MR. ROCHA: Your Honor, I'm not opposed to
13 foundation, but I've allowed the Government to --
14 the last four questions, she's just been leading
15 the witness, and he's just been saying, "Yes," so
16 I'd ask for her to rephrase the question.

17 THE COURT: They are leading questions, so
18 I'm going to sustain that.

19 BY MS. FURTADO:

20 Q. So let's talk about the process, then, for
21 doing your immigration -- your expedited removal.

22 First, is an expedited removal a criminal
23 proceeding?

24 A. No.

25 Q. What is it?

1 A. It's administrative.

2 Q. Okay. In an administrative proceeding, do you
3 read the person you're processing a Miranda
4 warning?

5 A. No.

6 Q. Do you read a warning to the person you're
7 processing if you're processing them
8 administratively?

9 A. Yeah, there's a -- there's s -- before I take
10 their sworn statement there's a little statement.
11 I have them read it, and if they can't read, I will
12 read it to them.

13 Q. And if you -- if -- what language are you
14 using when you're reading the statement to a
15 person?

16 A. Spanish.

17 Q. And that would --

18 A. Typically.

19 Q. Would that be just dependent on what language
20 they spoke?

21 A. Yes.

22 Q. Okay. When you were speaking to Mr. Ramos-
23 Zepeda, what language were you using?

24 A. I believe it was Spanish.

25 Q. I would ask you to look at -- well, I'm going

1 to show you the document.

2 MS. FURTADO: May I approach the witness,
3 Your Honor?

4 THE COURT: Sure.

5 MS. FURTADO: Thank you.

6 BY MS. FURTADO:

7 Q. I'm going to show you what's been marked as
8 Government's Exhibit No. 1. I'd ask you to take a
9 look at that (inaudible).

10 A. Okay.

11 Q. So do you recognize those documents?

12 A. Yes.

13 Q. Okay. What are they?

14 A. This is a record of the sworn statement and
15 proceedings under Section 235(b)(1) of the Act.

16 Q. Okay. What -- is there an indication of who
17 the alien was that you created that record for?

18 A. Yes. His name is on here.

19 Q. Okay. Who is it?

20 A. Ramon Ramos-Zepeda.

21 Q. Is that the record that you created when you
22 did the processing on the 12th of January, 2009?

23 A. Yes.

24 Q. Okay. Is that a fair and accurate reflection
25 of the -- of the conversation you had or the -- the

1 conversation you had --

2 A. Yes.

3 Q. -- with Mr. Zepeda on that day?

4 MS. FURTADO: Judge, I move to admit
5 Exhibit No. 1.

6 THE COURT: Mr. Rocha, any objection?

7 MR. ROCHA: No objection.

8 THE COURT: We will go ahead and admit
9 Government's Exhibit No. 1. Thank you.

10 BY MS. FURTADO:

11 Q. Okay. When looking at that document, Agent,
12 can you see if there's a language indicated?

13 A. Yes. It says Spanish language.

14 Q. In looking at that document, does that help to
15 refresh your memory about the language you used
16 when speaking to Mr. Ramos-Zepeda?

17 A. Yes. I spoke to him in Spanish.

18 Q. And when you were speaking to Mr. Ramos-
19 Zepeda, did he appear to be able to understand you?

20 A. Yes.

21 Q. And were you able to understand him in
22 Spanish?

23 A. Yes.

24 Q. And at times during your conversation with
25 Mr. Ramos-Zepeda, did he ask you questions that

1 were consistent with what you were talking about?

2 A. I'm sorry?

3 Q. Did he ask you questions about what you were
4 doing, the processing?

5 A. Typically people ask and I'll answer them,
6 whatever questions they have.

7 MR. ROCHA: I object. Nonresponsive. She
8 asked whether he asked questions, not whether
9 generally people -- his response was generally
10 people do.

11 THE COURT: I'm going to sustain that. I
12 think -- go ahead and if you'd ask the prior
13 question with regard to specifically this
14 individual.

15 MS. FURTADO: Okay.

16 BY MS. FURTADO:

17 Q. When you were speaking with Mr. Ramos-Zepeda,
18 were you -- were you having an exchange where, when
19 he asked you questions, it was appropriate to what
20 you were talking about?

21 A. Yes.

22 Q. Okay. You said you use a system called E3 to
23 do the processing?

24 A. Yes.

25 Q. Is that the same system you use when doing an

1 expedited removal?

2 A. Yes.

3 Q. And does that system, would it automatically
4 generate forms for you to do the expedited removal?

5 A. Yes.

6 Q. Okay. We've talked a little about the
7 biographical information. That's information you
8 have to put in. Is that information you have to
9 put in when doing the expedited removal?

10 A. Yes.

11 Q. And did you put that information in when doing
12 this expedited removal for Mr. Ramos-Zepeda?

13 A. All the questions that I asked him are
14 documented in this record of sworn statement.

15 MS. FURTADO: Can I have just a second,
16 Your Honor?

17 THE COURT: Sure.

18 BY MS. FURTADO:

19 Q. Agent, I want to back up a second. In the 213
20 there's a photograph.

21 A. Okay.

22 Q. And I previously asked you if you verified
23 during processing the photo versus the person
24 you're processing?

25 A. Yes.

1 Q. In this particular instance, did you -- did
2 you verify, when you were processing Mr. Ramos-
3 Zepeda, that the photo you had on the I-213 was the
4 person you were actually processing?

5 A. Yes.

6 Q. And do you see that person in the courtroom
7 today?

8 A. The appearance is a little different, but they
9 look the same.

10 Q. Okay. And can you just point to him and give
11 us an article of clothing that he's wearing, the
12 person that you're referring to that you say
13 appears to look the same in the picture?

14 A. He's wearing an orange shirt.

15 MS. FURTADO: Okay. Your Honor, I would
16 ask that the record reflect that the witness is
17 referring to the defendant.

18 THE COURT: It will reflect that. Thank
19 you.

20 MS. FURTADO: Thank you.

21 BY MS. FURTADO:

22 Q. When you talked to Mr. Ramos-Zepeda, you said
23 that you took some personal information. Would you
24 ask Mr. Ramos-Zepeda if he had a United States
25 address?

1 A. Yes.

2 Q. And in this particular instance, on the 12th,
3 when you talked to Mr. Ramos-Zepeda, did he give
4 you a U.S. address?

5 A. No.

6 Q. What information did he give you?

7 A. He failed to provide a U.S. address.

8 Q. When you process a person for immigration
9 issues, do you also let them speak to a consular
10 representative?

11 MR. ROCHA: Again, Your Honor, it's a
12 leading question.

13 THE COURT: Well, I think that's a yes or
14 no, but you are leading him a little bit, so I'll
15 sustain that.

16 MS. FURTADO: Okay.

17 BY MS. FURTADO:

18 Q. Is there a process by which a person is able
19 to talk to a consular representative during
20 immigration processing?

21 A. They do have a right to speak to the consulate
22 and --

23 Q. And in this particular instance with
24 Mr. Ramos-Zepeda, did you give him that
25 opportunity?

1 A. Yes, and --

2 Q. Did he take that opportunity to speak to a
3 consular representative?

4 A. At that time he declined to speak with anyone.

5 Q. Okay. When you are offering that opportunity,
6 are you also evaluating or asking questions about
7 whether or not a person is afraid?

8 MR. ROCHA: Again, objection. Counsel
9 should re-ask their question like what else do you
10 do, what happens afterwards, but she's leading him
11 exactly to the answer. He's going to say, yes, I
12 did.

13 THE COURT: Sustained.

14 BY MS. FURTADO:

15 Q. What questions do you ask after talking to a
16 consular -- after you let an alien talk to a
17 consular representative?

18 A. If they don't want to talk, I don't have them
19 -- we just don't -- they don't talk to the
20 consulate.

21 Q. Okay. What other -- what other questions are
22 you asking?

23 A. I ask them if they fear any kind of
24 persecution or torture if they're returned to their
25 country of citizenship.

1 Q. And in this particular instance, did you ask
2 Mr. Ramos-Zepeda about fear or torture?

3 A. I did.

4 Q. And what was his response?

5 A. He did not fear any persecution or torture.

6 Q. Okay. So based on the information you have
7 from Mr. Ramos-Zepeda through the I-213 process,
8 did you believe that you had any form of relief
9 that you should be extending to the defendant?

10 A. No.

11 Q. Okay. And did you believe that Mr. Ramos-
12 Zepeda fit the criteria for expedited removal?

13 A. Yes, he did.

14 Q. All right. Now, when you do an expedited
15 removal, I've shown you Exhibit 1. That Exhibit
16 does -- is there a provision on there where you are
17 providing some sort of right?

18 A. I read them this little synopsis.

19 Q. Okay. And what is that synopsis?

20 A. It starts with, "I am an officer of the United
21 States Department of Homeland Security. I am
22 authorized to administer the immigration laws and
23 to take sworn statements. I want to take your
24 sworn statement regarding your application for
25 admission to the U.S. Before I take your

1 statement, I also want to explain your rights and
2 the purpose and consequences of this interview."

3 I do -- there is -- in the computer, there is
4 two boxes to click whether English or Spanish.

5 Right here it's in English, but I would have read
6 it to him in Spanish. If -- I ask them first if
7 they're able to read and understand it, and if they
8 read and understand it, I'll start my questioning
9 once they're done.

10 Q. And with Mr. Ramos-Zepeda, did you provide
11 what you have just read to us to Mr. Ramos-Zepeda?

12 A. Yes.

13 Q. Did you do that in English or in Spanish?

14 A. In Spanish.

15 Q. Okay. Did you -- while you were observing
16 Mr. Ramos-Zepeda, did he -- did you believe he
17 understood the information you were giving him?

18 A. I asked him.

19 Q. And what -- you asked him what?

20 A. If he understood what I said to him.

21 Q. And what did he say?

22 A. Yes.

23 Q. Do -- what else did you ask him?

24 A. There's a bunch of questions on here. Did you
25 want me to go through each one?

1 Q. Sure.

2 A. I asked him -- so I am asking the questions in
3 Spanish, and while I'm asking him, I'm inputting
4 them into the computer in English, and I asked him,
5 "Do you understand what I've said to you?"

6 And he stated, "Yes."

7 Then I asked him, "Do you have any questions?"

8 He said, "No."

9 Q. Now, let me stop you there.

10 Are you -- when you are giving this right, are
11 you giving any information about admissibility or
12 inadmissibility to the person you're processing?

13 A. I do. I let them know that it's a removal, an
14 expedited removal.

15 Q. Is that part of the sworn statement or the
16 record of the sworn statement?

17 A. Yes. It's in the blurb that -- that is read
18 to them.

19 Q. And in English, can you read us at least a
20 portion of that blurb.

21 A. "You do not appear to be admissible or to have
22 had the required legal papers authorizing your
23 admission to the United States. This may result in
24 your being denied admission and immediately
25 returned to your home country without a hearing.

1 If a decision is made to refuse your admission into
2 the United States, you may be immediately removed
3 from this country, and if so, you may be barred
4 from reentry for a period of five years or longer."

5 Q. When you were speaking to Mr. Ramos-Zepeda,
6 did he appear to understand that portion of this
7 I-67 -- 867 form?

8 A. Yes.

9 Q. As part of the process, do you also ask a
10 person whether they are willing to speak to you or
11 not?

12 A. Yes.

13 Q. Okay. Is that also a portion of this form?

14 A. Yes.

15 Q. Okay. Can you read to us the portion of the
16 form that applies.

17 A. "This may be your only opportunity to present
18 information to me and the Department of Homeland
19 Security to make a decision. It is very important
20 that you tell me the truth. If you lie or give
21 misinformation, you may be subject to criminal or
22 civil penalties or barred from receiving
23 immigration benefits or relief now or in the
24 future."

25 Q. Now, during your contact with Mr. Ramos-

1 Zepeda, did he appear to you to understand that
2 section of the I-867 form?

3 A. Yes.

4 Q. Now, do you -- did you ask Mr. Ramos-Zepeda if
5 he was willing to answer questions, specifically
6 that question?

7 A. Excuse me?

8 Q. Did you ask Mr. Ramos-Zepeda if he was willing
9 to answer your questions?

10 A. Yes.

11 Q. And what did he say?

12 A. Yes.

13 Q. Now, do you then at this point speak to
14 Mr. Ramos-Zepeda about his immigration status and
15 his biographical information?

16 A. I do read him the rest -- the whole statement.

17 Q. Okay.

18 A. So the rest of the statement, it says, "Except
19 as I will explain to you, you are entitled to a
20 hearing or review. U.S. law provides protection to
21 certain persons who face persecution, harm, or
22 torture upon return to their home country. If you
23 fear or have a concern about being removed from the
24 United States" --

25 THE COURT: Slow down. Slow down a little

1 bit. Thank you.

2 A. -- "removed from the United States or about
3 being sent home, you should tell me during this
4 interview because you may not have another chance.

5 "You will have the opportunity to speak
6 privately and confidentially to another officer
7 about your fear or concern. That officer will
8 determine if you should remain in the United States
9 and not be removed because of that fear.

10 "Until a decision is reached in your case, you
11 will remain in the custody of the Department of
12 Homeland Security. Any statement you make may be
13 used against you in this or any subsequent
14 administrative proceeding."

15 Q. Now, after reading that to Mr. Ramos-Zepeda,
16 did he appear to you to understand what you read to
17 him?

18 A. Yes, I asked him.

19 Q. Okay. Can you take us through that, please.

20 A. Excuse me?

21 Q. What did you ask him?

22 A. So I asked him, "Do you understand what I have
23 said to you?"

24 And he stated, "Yes."

25 And then I asked him, "Do you have any

1 questions?"

2 And he stated, "No."

3 And I asked him, "Are you willing to answer my
4 questions at this time?"

5 And he stated, "Yes."

6 MR. ROCHA: Your Honor, it's not
7 necessary. It's already been admitted into
8 evidence, I believe, so the Court can look at that
9 himself. I just don't think it's necessary for him
10 to go through the list of questions he asked.

11 THE COURT: Well, I think if Ms. Furtado
12 wants to she can. It is in evidence.

13 BY MS. FURTADO:

14 Q. One of the things in this form was about
15 biographical information, so let me ask you about
16 that.

17 When you talked to the defendant in this sworn
18 statement, did he tell you what country he was a
19 citizen of?

20 A. Yes. He stated Mexico.

21 Q. Did he tell you if he had parents in the
22 United States that were U.S. citizens?

23 A. He stated his parents were both from Mexico.

24 Q. Did he -- did you ask him if he had any claim
25 to being a U.S. citizen?

1 A. Yes, and he stated, "No."

2 Q. Did you ask him what his purpose for entering
3 the United States was?

4 A. Yes, and he stated he was heading toward
5 Redwood City, California, to find work.

6 Q. Did you ask him about his previous immigration
7 history?

8 A. I asked him if he had been deported before and
9 he stated, "No."

10 Q. Was that consistent with the immigration
11 history information you had?

12 A. Yes.

13 Q. Based on Mr. Ramos-Zepeda's fingerprints?

14 A. Yes.

15 Q. Did you speak to Mr. Ramos-Zepeda about the
16 five-year period, prohibition period?

17 A. I asked him, "Do you understand that, if you
18 are removed from the United States today, you may
19 not ask to enter the United States for a period of
20 five years without the permission of the United" --
21 "the permission of the Attorney General of the
22 United States?"

23 And he stated, "Yes."

24 Q. Now, did you give Mr. Ramos-Zepeda an
25 opportunity to ask you questions during the sworn

1 statement?

2 A. I did. I asked him if there was anything he
3 would like to say or add or for me to add, and he
4 stated, "No."

5 Q. As part of the process of the sworn statement,
6 are you required to ask questions about fear or
7 harm?

8 A. Yes. It's on that fourth -- the fourth page.

9 Q. And what kinds of questions are you asking?

10 A. I asked him if he has any fear or concern
11 about being returned to his home country or being
12 removed from the United States.

13 Q. And what did he say?

14 A. He stated, "No."

15 I asked him, "Would you be harmed if you were
16 returned to your home country or country of last
17 residence?"

18 And he stated, "No."

19 Q. And then do you give him an opportunity to ask
20 you questions or add something else to that
21 statement?

22 A. I do. I asked him, "Do you have any question
23 or anything else you would like to add?"

24 And he stated, "No."

25 Q. What are you required to do once you've

1 completed the sworn statement with an alien that
2 you've processed?

3 A. I print the sworn statement, and each time I
4 make a correction, I have -- I explain to them they
5 have to initial where we alter the page.

6 Q. Okay. And in terms of Exhibit 1, I would ask
7 you to look at what has been Bates-stamped page 77,
8 and we see some markings on that page. Can you
9 tell us what those are.

10 A. So from the top, those are his initials
11 showing that we altered the page. The second one
12 is the same, his initials showing we made markings
13 on the page, and then his signature is next to his
14 name.

15 I also signed next to my name, and there was
16 also an agent who witnessed the signing.

17 Q. Why do you -- did you -- did you -- as part of
18 this process, did you ask the defendant to sign
19 this page that's marked -- that's Bates-stamped 77?

20 A. Yes.

21 Q. And why would you ask him to sign that page?

22 A. I explain to them, these are the questions
23 that I have asked them regarding the removal and to
24 put his signature next to his name.

25 Q. Okay. And is this something you're explaining

1 to him in English or Spanish?

2 A. In Spanish.

3 Q. Now, I'd ask you to just look at that
4 paragraph there. What is that paragraph right
5 above his signature referring to?

6 A. That he has read or have had read to me this
7 statement consisting of four pages, including this
8 page. "I state that my answers are true and
9 correct to the best of my knowledge and that this
10 statement is a full, true, and correct record of my
11 interrogation on the date indicated by the
12 above-named officer of the Department of Homeland
13 Security.

14 "I have initialed each page of this statement
15 and the corrections noted on pages 1, 2, 3 and 4."

16 Q. Okay. Now, is this something that you would
17 have read to Mr. Ramos-Zepeda on the 12th of
18 January, 2009?

19 A. Yes.

20 Q. And did he -- did you believe he understood
21 what you were explaining to him or reading to him?

22 A. Yes, I make sure they understand.

23 Q. Now, the total affidavit that you created for
24 Mr. Ramos-Zepeda on the 12th, is that four pages
25 long?

1 A. Yes.

2 Q. And what markings do we see on the bottom of
3 the pages Bates-stamped 75, 76, -- 75 and 76 and
4 74? Excuse me.

5 A. Those are -- those are his initials. When I
6 -- when I am making the correction, they're
7 standing in front of me, and I'm telling them I'm
8 making this correction and to initial it.

9 Q. What does that initial signify to you?

10 A. That he understood what I'm telling him.

11 Q. And the signature that's on page 77, what did
12 that signify to you, Mr. Ramos-Zepeda's signature?

13 A. That he understood the whole -- the whole
14 statement.

15 Q. Now, in terms of fear, is fear something
16 significant for you? If somebody expresses fear,
17 is that significant for you in your work?

18 A. Yes, because they will see somebody in
19 addition to me that will interview him for -- for
20 their credible fear.

21 Q. Throughout the course of your interaction with
22 Mr. Zepeda, did you notice or observe anything that
23 indicated to you that he was afraid?

24 A. No.

25 Q. Did you note anything in the documents that

1 indicated that Mr. Zepeda was afraid?

2 A. Yes, I did, that he was not afraid.

3 Q. Thank you.

4 Now, once you've had Mr. Ramos-Zepeda initial
5 and acknowledge the signatures, what's the next
6 step in the process that you need to do for the
7 expedited removal?

8 A. We serve him with the I-860.

9 MS. FURTADO: May I approach the witness
10 again, Your Honor?

11 THE COURT: Sure.

12 BY MS. FURTADO:

13 Q. I'm showing you what's been marked as
14 Government's Exhibits 2, 3, and 4, and I'd ask you
15 to take a look at that, those.

16 Do you recognize those documents?

17 A. Yes.

18 Q. Okay. So let's start with No. 2. What is it?

19 A. That's the I-860, the notice and order of
20 expedited removal.

21 Q. Okay. And who is the person that that refers
22 to, that document refers to?

23 A. Ramon Ramos-Zepeda. The charges -- the
24 charges of the Government are on here.

25 Q. And what's the date associated with that

1 document?

2 A. January 12th, 2009.

3 Q. Okay. Is that a fair and accurate copy of the
4 document you would have completed with Mr. Ramos-
5 Zepeda during the processing you did?

6 A. Yes.

7 Q. Okay.

8 MS. FURTADO: Move to admit Government 2,
9 Your Honor.

10 THE COURT: Any objection?

11 MR. ROCHA: No objection.

12 THE COURT: It will be admitted. Thank
13 you.

14 BY MS. FURTADO:

15 Q. I'd ask you to take a look at Exhibit 3.

16 Do you recognize that document?

17 A. Yes.

18 Q. What is it?

19 A. The I-296. This is notice to alien ordered
20 removed/departure verification.

21 Q. Okay. Now, in terms of this document, who is
22 it referring to?

23 A. Ramon Ramos-Zepeda.

24 Q. Okay. What's the date?

25 A. January 12th, 2009.

1 Q. Okay. Is your signature on this document?

2 A. Yes.

3 Q. Okay. Is this a fair and accurate copy of the
4 document you would have completed on the 12th with
5 Mr. Ramos-Zepeda?

6 A. Yes.

7 MS. FURTADO: Okay. I move to admit
8 Government's 3.

9 THE COURT: Mr. Rocha, any objection?

10 MR. ROCHA: No objection, Your Honor.

11 THE COURT: We'll go ahead and admit
12 Exhibit No. 3. Thank you.

13 MS. FURTADO: Okay.

14 BY MS. FURTADO:

15 Q. I'm going to take back No. 4 from you.

16 All right. Now, Mr. -- Agent, when you speak
17 to the -- when you were speaking to Mr. Ramos-
18 Zepeda regarding Exhibit No. 2 and 3, what language
19 were you using?

20 A. Spanish.

21 Q. Okay. And when you were speaking to him, did
22 you have any indication that he was not
23 understanding you?

24 A. No.

25 Q. Okay. Let's talk about Exhibit No. 2.

1 What's the purpose of this form, sir?

2 A. This is to notify him of the charges.

3 Q. And in this particular instance, what were the
4 charges against Mr. Ramos-Zepeda?

5 A. "You did not then possess or present a valid
6 immigration visa, reentry permit, border crossing
7 identification card, or other valid entry document,
8 to wit: You have entered into the United States
9 illegally with the intent to reside in the United
10 States."

11 Q. Now, were these charges based on your
12 investigation or the information that you had?

13 A. In the sworn statement.

14 Q. Okay. And then what's -- is there a different
15 bottom section to the I-860 form?

16 A. Yes.

17 Q. And what is that section?

18 A. A certificate of service. It says, "I
19 personally served this original" -- "served the
20 original of this notice upon the above-named person
21 on January 12, 2009."

22 Q. And what does that section signify to you,
23 sir?

24 A. That I explained these charges to the
25 individual.

1 Q. Which individual?

2 A. Ramon Ramos-Zepeda.

3 Q. Okay. And when you did that, when you served
4 this notice on Mr. Ramos-Zepeda, do you recall
5 having a belief that he wasn't understanding what
6 you were serving on him?

7 A. He understood.

8 Q. Okay. Is there also a section above the
9 certificate of service?

10 A. Yes.

11 Q. What is that section?

12 A. This is the order of removal under Section
13 235(b)(1) of the Act.

14 Q. And what does this section signify?

15 A. "Based upon the determination set forth above
16 and evidence presented during inspection or
17 examination, pursuant to Section 235 of the Act and
18 by the authority contained in Section 235(b)(1) of
19 the Act, you are found to be inadmissible as
20 charged and ordered removed from the United
21 States."

22 Q. Okay. Is that a portion that you would have
23 explained to Mr. Ramos-Zepeda?

24 A. Yes.

25 Q. Okay. There are a few signatures there. What

1 do those signify?

2 A. I signed and so did the supervisor at that
3 time.

4 Q. The supervisor's signature, what is -- what's
5 that for? Why do you need that?

6 A. Because he's the designated official to
7 approve the document.

8 Q. Did you say "to approve the document"?

9 A. Yes.

10 Q. And what does his signature then signify to
11 you?

12 A. That the notice was served.

13 Q. Okay. On the 12th of January, you had
14 information that there was an outstanding warrant.
15 You testified that there was an outstanding
16 warrant.

17 What did you do with that information?

18 A. We -- we contact the agency that has the
19 outstanding warrant and see if they want to seek
20 extradition.

21 Q. Okay. Prior to you -- and so in Mr. Ramos-
22 Zepeda's instance, did they -- did they indicate
23 they wanted to seek extradition?

24 A. They did.

25 Q. Okay. Prior to going forward with the

1 extradition process, do you also talk to Mr. Ramos-
2 Zepeda about Exhibit 3?

3 A. Yes.

4 Q. And what is that document?

5 A. This is a notice to the alien ordered
6 removed/departure verification.

7 Q. Okay. The top section of that form, what is
8 that? What is that about?

9 A. It's notifying Ramon Ramos-Zepeda that he was
10 -- he's been found to be inadmissible to the United
11 States under the provisions of Section 212(a) of
12 the Immigration and Nationality Act or deportable
13 under the provisions of Section 237 of the Act as a
14 visa waiver pilot program violator.

15 "In accordance with the provisions of Section
16 212(a)(9) of the Act, you are prohibited from
17 entering, attempting to enter, or being in the
18 United States for a period of five years from the
19 date of your departure from the United States as a
20 consequence of your having been found inadmissible
21 as an arriving alien in proceedings under Section
22 235(b)(1) or 240 of the Act."

23 Q. Is this something that you would have
24 explained to Mr. Ramos-Zepeda?

25 A. Yes.

1 Q. What language would you have been speaking?

2 A. It would have been Spanish.

3 Q. And at the time, do you recall having any
4 indication that Mr. Ramos-Zepeda did not understand
5 what you were explaining to him from this form?

6 A. No.

7 Q. Now, the bottom portion of that form, what is
8 it?

9 A. The verification of removal.

10 Q. Is that something you complete?

11 A. No.

12 Q. When does that section get completed?

13 A. When they physically get removed from the
14 United States.

15 Q. What happens when a person is physically
16 removed from the United States? Is there some
17 acknowledgment that needs to happen?

18 A. Yeah, all this -- everything here gets filled
19 out, and somebody actually takes them to the -- to
20 a port of entry and physically watches them leave
21 the country.

22 Q. Okay. But as a processing agent, would this
23 be your responsibility, this verification of
24 removal section?

25 A. No.

1 Q. Once you're done -- once you were done
2 processing Mr. Ramos-Zepeda, what did you do?

3 A. I put the file together and put Mr. Ramon
4 Ramos-Zepeda in his cell and waited for the agency
5 that was seeking extradition to take custody of
6 Mr. Ramon Ramos-Zepeda.

7 Q. So does the extraditing agency come or is
8 there --

9 A. There's a -- so he was -- the extradition was
10 out of California, but we have a local Santa Cruz
11 County that will come and pick him up.

12 Q. In this particular case, what happened with
13 Santa Cruz County as far as your involvement was
14 concerned?

15 A. They picked him up.

16 Q. What did you do with the file once -- once
17 Mr. Ramos-Zepeda was picked up?

18 A. It gets sent to the file control office.

19 Q. Do you -- do you talk to Mr. Ramos-Zepeda
20 regarding ties or equity in the country?

21 A. Yes. I -- it's not in the sworn statement but
22 I will ask.

23 Q. Okay. What in this particular instance on the
24 12th did you ask Mr. Ramos-Zepeda regarding equity
25 in the United States?

1 A. I don't remember.

2 Q. Okay. I'd ask you to look at your I-213, and
3 I'd ask you to look at the last page.

4 A. "Ramos claims to have no close family ties or
5 equity in the United States."

6 Q. Okay. Did your I-213 help you to remember
7 that?

8 A. Yes, it did.

9 Q. And was there anything else that was provided
10 to Mr. Ramos-Zepeda during this -- during your
11 processing?

12 A. He was given a meal and a drink. He claimed
13 no fear of returning to Mexico.

14 Q. Were you making observations about his general
15 appearance?

16 A. He appeared to be in good health.

17 Q. Do you know -- in the end, do you know what
18 happened with the extradition of Mr. Ramos-Zepeda
19 at the time?

20 So around the time of these events, the 12th,
21 did you know what happened with the extradition?

22 A. No.

23 MS. FURTADO: Okay. I just need a second,
24 Your Honor.

25 THE COURT: Sure.

1 MS. FURTADO: So -- a couple more
2 questions.

3 BY MS. FURTADO:

4 Q. This incident, the original contact with
5 Mr. Ramos-Zepeda, you said that you had run his
6 criminal history?

7 A. Yes.

8 Q. Do you know what the conviction, the 2005
9 conviction, was for?

10 A. Yeah. It was counts of lewd, lascivious acts
11 with a child under 14.

12 MS. FURTADO: Can I have just one minute,
13 Your Honor?

14 THE COURT: Sure.

15 MS. FURTADO: Okay. I don't have any
16 other questions for this witness.

17 THE COURT: Thank you.

18 Mr. Rocha?

19 MR. ROCHA: Your Honor, can we take a
20 short break?

21 THE COURT: Absolutely. We'll take a
22 break. Thank you. And once again, if at any time
23 you need that, let me know. So we'll take a five-
24 minute break or so.

25 MS. FURTADO: Thank you very much. Thank

1 you.

2 THE COURT: Thank you.

3 (Off the record from 4:11 p.m. to
4 4:22 p.m.)

5 THE COURT: And before we move on, just
6 for housekeeping, I don't think we're going to
7 finish today, and I don't want you to rush. I
8 don't want you to feel like you're rushed, so I was
9 hoping we could come back on Monday. It's my
10 understanding that you're not available on Monday.

11 Unfortunately, I'm on duty the next two
12 weeks, and it looks like the next time that we can
13 return when I'm not on duty is March 7th at nine
14 o'clock a.m.

15 I know you have a March 8th trial date and
16 a plea deadline of today, so those will probably
17 have to -- someone will have to move to continue
18 those.

19 So let me hear from you, Mr. Rocha, first.

20 MR. ROCHA: Well, I can certainly move to
21 continue the trial and the plea deadline. That's
22 not a problem. I can file a formal motion if the
23 Court would like, so that's not a problem.

24 THE COURT: Right, you'll have to do that.

25 MR. ROCHA: Yeah, I can do that. So I

1 certainly will be able to --

2 THE COURT: And I apologize --

3 MR. ROCHA: Oh, no worries, Your Honor.

4 THE COURT: So it looks like -- and so
5 Monday, I wish we could do it Monday. I understand
6 you can't. So -- and I don't want any of you to
7 feel rushed, so I think what we'll do is hopefully
8 we can get through Agent Borrego, and if not, then
9 we'll probably end up having to reconvene on March
10 7th.

11 MR. ROCHA: Your Honor, if it's okay with
12 the Court, we could recess now, because I doubt
13 that my -- I hate for my testimony or cross to be
14 broken.

15 THE COURT: I --

16 MR. ROCHA: And we're going to come back
17 in two weeks, and I hate to then rehash everything
18 just to get us up to speed. So if the Court is
19 inclined, I -- and then the marshals tell me that
20 my client's the last one on the bus --

21 THE COURT: Right, and that actually will
22 probably help everybody, frankly, so that's okay
23 with me.

24 Ms. Furtado, is that okay with you?

25 MS. FURTADO: Yes, Your Honor.

1 THE COURT: Okay. That's fine then. So I
2 think what we're going to do, I'm presuming the
3 agent is going to be available on March 7th. I
4 mean --

5 MS. FURTADO: I didn't ask.

6 THE COURT: Well, why don't we ask.

7 MS. FURTADO: I thought that we would
8 continue going through Borrego, but -- are you
9 available?

10 AGENT BORREGO: Is that, March 7th, a
11 Monday, you said?

12 MS. FURTADO: It's a Monday.

13 THE CLERK: It's a Monday.

14 THE COURT: Well, here's what we're going
15 to do. If that's a problem, just let us know.

16 AGENT BORREGO: Okay.

17 THE COURT: Okay? So what we're going to
18 do -- and I appreciate what Mr. Rocha's saying, and
19 also I think it's probably better for the marshals.
20 It's probably better for Mr. Ramos-Zepeda, and I
21 know it's certainly better for the interpreters.

22 So what we're going to do, just for the
23 record, right now we have admitted Government's
24 Exhibits 1, 2, and 3. Those are the only exhibits
25 that have been admitted.

1 We will reconvene beginning with
2 Mr. Rocha's cross-examination of Agent Borrego on
3 Monday, March 7th, at nine o'clock a.m. And I
4 really apologize for breaking this up. I know it's
5 not the best way to do it.

6 Ms. Granoff, is there anything --

7 MS. GRANOFF: Yeah, just one more
8 housekeeping matter, Your Honor.

9 THE COURT: Sure.

10 MS. GRANOFF: Since there's going to be
11 such a lengthy break in between the testimony of
12 direct and cross-examination, can we just ask the
13 Court to order the transcript so that both -- all
14 the parties, actually --

15 THE COURT: Yeah.

16 MS. GRANOFF: -- will have an opportunity
17 to refresh their recollection of that testimony
18 that was laid so far in order to pick up where
19 we're leaving off, since it'll be almost two to
20 three weeks?

21 THE COURT: Beth?

22 We'll figure it out. We'll figure it out.

23 MS. GRANOFF: Thank you, Judge.

24 THE COURT: So if, in fact, we do order
25 one, we'll certainly -- that will be available.

1 So I think that's it. Thank you very much
2 for your time. I appreciate it.

3 MR. ROCHA: Thank you, Your Honor.

4 MS. FURTADO: Thank you, Your Honor.

5 THE COURT: Have a good weekend.

6 (Proceedings concluded in this matter at
7 4:26 p.m.)

C E R T I F I C A T E

I, Erica R. McQuillen, do hereby certify that the preceding pages of typewritten matter are a true, correct, and complete transcription of the digital recording of proceedings in the above-entitled matter.

Dated this 29th day of February, 2016.

s/Erica R. McQuillen
Erica R. McQuillen, RDR, CRR